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KEWEENAW BAY INDIAN COMMUNITY

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December 19, 2008

Timothy C. Henry
Acting Director
Water Division
US EPA Region 5
77 West Jackson Boulevard (WU- 16J)
Chicago, IL 60604-3590

Re: Request for Government-to-Government Consultations; Eagle Mine Project; Marquette County, Michigan; EPA Permit Application No. MI -103-5W20-0002

Dear Mr. Henry,

In our letter to you, dated November 21, 2008, I stated that a report on technical UIC issues relating to this Project was in the process of being prepared by our consultants and would be submitted to the EPA/UIC Branch by December 5, 2008.

We directed our consultants to delay submitting this report to EPA/UIC Branch after discovering that on October 30, 2008, EPA/UIC Branch had requested additional information from Kennecott Eagle Minerals on UIC issues and that Kennecott had responded to that request on November 14, 2008 and on November 21, 2008, and had indicated additional information would be provided to the EPA/UIC Branch on December 19, 2008. After consulting with our experts, following their preliminary review of the information provided by Kennecott to the EPA/UIC Branch on November 14 and 21, 2008, we concluded that it would be more appropriate for our experts to submit their report to the EPA/UIC Branch after they have had an opportunity to review and analyze all the information that Kennecott submits to the EPA/UIC Branch in response to EPA/UIC request of October 30, 2008. Accordingly, and assuming we are able to obtain a copy of the Kennecott submissions scheduled for December 19, 2008, in the very near future, our experts will then be in a position to submit their report to the EPA/UIC Branch by the middle part of January, 2009.

As pointed out in our letter of November 21, 2008, the Community believes that applicable laws and regulations require that the government-to-government consultation process must be completed on both the UIC issues and the Section 106 issues, prior to the issuance of the

draft UIC permit decision by EPA for this Project. In this regard, we have requested that our attorneys, Honigman Miller Schwartz and Cohn, submit to the Associate Regional Counsel for Region 5 a legal analysis of this issue as it relates to consultation on the Section 106 issue. We expect that this legal analysis will be submitted to your Associate Regional Counsel in the early part of January, 2009.

We look forward to meeting with you in government-to-government consultations concerning this Project in January, 2009

Sincerely,

Warren C. Swartz

President

cc: Lynn Y. Buhl, Administrator, Region 5
Roger Field, Associate Regional Counsel, Region 5
Rebecca Harvey, Chief, UIC Branch
Ross Micham, Geologist, UIC Branch
Jennifer Manville, Michigan Tribal Liaison, EPA